

AMENDED IN SENATE APRIL 26, 2016

SENATE BILL

No. 1070

Introduced by Senator Hancock

February 16, 2016

An act to amend Sections 3051 and 4801 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

SB 1070, as amended, Hancock. Youth offender parole hearings.

Existing law requires the Board of Parole Hearings to conduct a youth offender parole hearing for offenders sentenced to state prison who committed those specified crimes when they were under 23 years of age. ~~Existing law requires the board to complete, by July 1, 2017, all youth offender parole hearings for individuals who were sentenced to indeterminate life terms, as specified. Existing law requires the board to complete, by July 1, 2021, all youth offender parole hearings for individuals who were sentenced to determinate terms, as specified. Existing law requires these hearings to be granted during specified years of incarceration.~~

~~This bill would make technical, nonsubstantive changes to these provisions: recast those provisions, and instead require the youth offender parole hearings following completion of the specified year of incarceration. This bill would provide that these hearings are not required for inmates serving a determinate sentence who will be released by operation of law pursuant to his or her determinate term less than 180 days from his or her scheduled hearing date.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 3051 of the Penal Code is amended to read:

3051. (a) (1) A youth offender parole hearing is a hearing by the Board of Parole Hearings for the purpose of reviewing the parole suitability of any prisoner who was under 23 years of age at the time of his or her controlling offense.

(2) For the purposes of this section, the following definitions shall apply:

(A) "Incarceration" means detention in a city or county jail, a local juvenile facility, a mental health facility, a Division of Juvenile Justice facility, or a Department of Corrections and Rehabilitation facility.

(B) "Controlling offense" means the offense *or enhancement* for which any sentencing court imposed the longest term of imprisonment.

(b) (1) ~~A person~~ *Unless previously released pursuant to other statutory provisions or court orders, an inmate* who was convicted of a controlling offense that was committed before the ~~person~~ *inmate* had attained 23 years of age and for which the sentence is a determinate sentence shall be eligible for release on parole ~~at a youth offender parole hearing by the board during following completion of his or her 15th year of incarceration, unless previously released pursuant to other statutory provisions; upon being granted parole by the board, pursuant to paragraph (1) of subdivision (b) of Section 3041, at a youth offender parole hearing.~~

(2) ~~A person~~ *Unless previously released or entitled to an earlier parole consideration hearing pursuant to other statutory provisions or court orders, an inmate* who was convicted of a controlling offense that was committed before the ~~person~~ *inmate* had attained 23 years of age and for which the sentence is a life term of less than 25 years to life shall be eligible for release on parole ~~by the board during following completion of his or her 20th year of incarceration at a youth offender parole hearing, unless previously released or entitled to an earlier parole consideration hearing pursuant to other statutory provisions; upon being granted parole by the board, pursuant to paragraph (1) of subdivision (b) of Section 3041, at a youth offender parole hearing.~~

(3) ~~A person~~ Unless previously released or entitled to an earlier parole consideration hearing pursuant to other statutory provisions or court orders, an inmate who was convicted of a controlling offense that was committed before the ~~person~~ inmate had attained 23 years of age and for which the sentence is a life term of 25 years to life shall be eligible for release on parole ~~by the board during following completion of his or her 25th year of incarceration at a youth offender parole hearing, unless previously released or entitled to an earlier parole consideration hearing pursuant to other statutory provisions.~~ upon being granted parole by the board, pursuant to paragraph (1) of subdivision (b) of Section 3041, at a youth offender parole hearing.

(4) This section shall not apply to an inmate serving a determinate sentence if he or she will be released by operation of law pursuant to his or her determinate term less than 180 days from his or her scheduled hearing date.

(c) An individual subject to this section shall meet with the board pursuant to subdivision (a) of Section 3041.

(d) The board shall conduct a youth offender parole hearing to consider release. At the youth offender parole hearing, the board shall release the individual on parole as provided in Section 3041, except that the board shall act in accordance with subdivision (c) of Section 4801.

(e) The youth offender parole hearing to consider release shall provide for a meaningful opportunity to obtain release. The board shall review and, as necessary, revise existing regulations and adopt new regulations regarding determinations of suitability made pursuant to this section, subdivision (c) of Section 4801, and other related topics, consistent with relevant case law, in order to provide that meaningful opportunity for release.

(f) (1) In assessing growth and maturity, psychological evaluations and risk assessment instruments, if used by the board, shall be administered by licensed psychologists employed by the board and shall take into consideration the diminished culpability of youth as compared to that of adults, the hallmark features of youth, and any subsequent growth and increased maturity of the individual.

(2) Family members, friends, school personnel, faith leaders, and representatives from community-based organizations with knowledge about the individual before the crime or his or her

1 growth and maturity since the time of the crime may submit
2 statements for review by the board.

3 (3) Nothing in this section is intended to alter the rights of
4 victims at parole hearings.

5 (g) If parole is not granted, the board shall set the time for a
6 subsequent youth offender parole hearing in accordance with
7 paragraph (3) of subdivision (b) of Section 3041.5. In exercising
8 its discretion pursuant to paragraph (4) of subdivision (b) and
9 subdivision (d) of Section 3041.5, the board shall consider the
10 factors in subdivision (c) of Section 4801. No subsequent youth
11 offender parole hearing shall be necessary if the offender is released
12 pursuant to other statutory provisions prior to the date of the
13 subsequent hearing.

14 (h) This section shall not apply to cases in which sentencing
15 occurs pursuant to Section 1170.12, subdivisions (b) to (i),
16 inclusive, of Section 667, or Section 667.61, or in which an
17 individual was sentenced to life in prison without the possibility
18 of parole. This section shall not apply to an individual to whom
19 this section would otherwise apply, but who, subsequent to
20 attaining 23 years of age, commits an additional crime for which
21 malice aforethought is a necessary element of the crime or for
22 which the individual is sentenced to life in prison.

23 (i) (1) The board shall complete all youth offender parole
24 hearings for individuals who became entitled to have their parole
25 suitability considered at a youth offender parole hearing prior to
26 the effective date of the act that added paragraph (2) by July 1,
27 2015.

28 (2) (A) The board shall complete all youth offender parole
29 hearings for individuals who were sentenced to indeterminate life
30 terms and who become entitled to have their parole suitability
31 considered at a youth offender parole hearing on the effective date
32 of the act that added this paragraph by July 1, 2017.

33 (B) The board shall complete all youth offender parole hearings
34 for individuals who were sentenced to determinate terms and who
35 become entitled to have their parole suitability considered at a
36 youth offender parole hearing on the effective date of the act that
37 added this paragraph by July 1, 2021. The board shall, for all
38 individuals described in this subparagraph, conduct the consultation
39 described in subdivision (a) of Section 3041 before July 1, 2017.

40 SEC. 2. Section 4801 of the Penal Code is amended to read:

1 4801. (a) The Board of Parole Hearings may report to the
2 Governor, from time to time, the names of any and all persons
3 imprisoned in any state prison who, in its judgment, ought to have
4 a commutation of sentence or be pardoned and set at liberty on
5 account of good conduct, or unusual term of sentence, or any other
6 cause, including evidence of intimate partner battering and its
7 effects. For purposes of this section, “intimate partner battering
8 and its effects” may include evidence of the nature and effects of
9 physical, emotional, or mental abuse upon the beliefs, perceptions,
10 or behavior of victims of domestic violence if it appears the
11 criminal behavior was the result of that victimization.

12 (b) (1) The board, in reviewing a prisoner’s suitability for parole
13 pursuant to Section 3041.5, shall give great weight to any
14 information or evidence that, at the time of the commission of the
15 crime, the prisoner had experienced intimate partner battering, but
16 was convicted of an offense that occurred prior to August 29, 1996.
17 The board shall state on the record the information or evidence
18 that it considered pursuant to this subdivision, and the reasons for
19 the parole decision. The board shall annually report to the
20 Legislature and the Governor on the cases the board considered
21 pursuant to this subdivision during the previous year, including
22 the board’s decisions and the specific and detailed findings of its
23 investigations of these cases.

24 (2) The report for the Legislature to be submitted pursuant to
25 paragraph (1) shall be submitted pursuant to Section 9795 of the
26 Government Code.

27 (3) The fact that a prisoner has presented evidence of intimate
28 partner battering cannot be used to support a finding that the
29 prisoner lacks insight into his or her crime and its causes.

30 (c) When a prisoner committed his or her controlling offense,
31 as defined in subdivision (a) of Section 3051, prior to attaining 23
32 years of age, the board, in reviewing a prisoner’s suitability for
33 parole pursuant to Section 3041.5, shall give great weight to the
34 diminished culpability of youth as compared to adults, the hallmark
35 features of youth, and any subsequent growth and increased
36 maturity of the prisoner in accordance with relevant case law.